

FILED

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3 CONSUMER LAW OFFICE OF  
4 ROBERT STEMLER, APLC  
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6 Palm Springs, CA 92263-1721

2009 OCT -6 AM 10:04

CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

BY \_\_\_\_\_

7 Telephone (760) 422-2200  
8 Fax: (760) 479-5957

9 Counsel for Plaintiff

10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA

12 JEREMY EVANS,

13 Plaintiff,

14 vs.

15 NORTH STAR CAPITAL  
16 ACQUISITION, LLC;  
17 NELSON & KENNARD,  
18 ATTORNEYS AT LAW;  
19 CRAIG CLEMENT;  
20 and DOES 1 to 10;

21 Defendants.

CV 09 07266 SJO PLA<sub>x</sub>

COMPLAINT FOR:

1. VIOLATING THE FAIR DEBT  
COLLECTION PRACTICES ACT;
2. VIOLATING THE CALIFORNIA  
ROSENTHAL FAIR DEBT  
COLLECTION PRACTICES ACT;

and DEMAND FOR JURY TRIAL

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Jurisdiction

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2 1. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d) and 28  
3 U.S.C. § 1331. Supplemental jurisdiction exists for the state law claim, pursuant to  
4 28 U.S.C. § 1367 and rule 18(a) of the Federal Rules of Civil Procedure.

Parties

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6  
7 2. The plaintiff, JEREMY EVANS [“plaintiff”], is a natural person.

8 3. Defendant NORTH STAR CAPITAL ACQUISITION, LLC [“NSCAL”]  
9 was and is an entity engaged primarily in the business of collecting debts.

10 4. Defendant NELSON & KENNARD, ATTORNEYS AT LAW  
11 [“Nelson”] was and is an entity engaged primarily in the business of collecting debts.

12 5. Defendant CRAIG CLEMENT [“Clement”] was employed by or a  
13 collection agent of Nelson and/or NSCAL and committed, on its behalf, the conduct  
14 ascribed to Clement, below.

15 6. The true names and capacities of the defendants sued herein as DOES  
16 1-10, inclusive, are unknown to plaintiff, at the present time.

Facts Supporting Each Claim

17  
18  
19 7. On April 8, 2008, Defendant Nelson mailed a collection letter on behalf  
20 of Nelson’s client, NSCAL, to Plaintiff, representing that the “current balance due”  
21 on the account with Plaintiff was \$3,712.20.

22 8. On October 8, 2008, Defendant Nelson filed a collection lawsuit on  
23 behalf of Nelson’s client, NSCAL, against plaintiff, in which Defendant NSCAL  
24 alleged that it was assigned a purported debt of plaintiff in the amount of \$2,387.42,  
25 that the interest due on the purported debt was at the rate of 25.900 percent per year  
26 from November 29, 2002.

27 9. Defendant’s collection lawsuit was signed by Robert Scott Kennard, a  
28 partner of Nelson.

1           10.    The purported debt underlying Defendant's collection lawsuit involved  
2 a purported credit card, which Plaintiff incurred primarily for personal, family, or  
3 household purposes.

4           11.    At the time of Defendant's filing the collection lawsuit against Plaintiff,  
5 the statute of limitations period had expired, barring the alleged claim.

6           12.    Plaintiff was served with the collection lawsuit and retained counsel, Mr.  
7 William Rose, to defend against the collection lawsuit.

8           13.    On December 4, 2008, Plaintiff's counsel appeared in the collection  
9 lawsuit by filing an answer to complaint and serving several discovery requests.

10          14.    On January 27, 2009 on behalf of NSCAL, Defendant Nelson served on  
11 Plaintiff's counsel a response to the discovery requests. The proofs of service show  
12 that the discovery responses were addressed to both Mr. Rose and Mr. Stempler.

13          15.    In a letter dated February 9, 2009, Clement communicated directly with  
14 Plaintiff regarding the account for which Plaintiff was represented, sending the letter  
15 directly to Plaintiff's residence address. The letter stated that the "Balance to Date"  
16 on the account was \$1,648.83 and, among other things, that the purpose of the letter  
17 was "to extend a special offer to you to help decrease some of your unwanted debt.  
18 Our client may be willing to settle your account for less than the current balance due."  
19 The letter also suggested that Plaintiff contact Nelson directly and "Please take  
20 advantage of this offer and avoid further collection proceedings."

21          16.    The letter dated February 9, 2009 from Defendants Nelson and Clement  
22 failed to explain why the account balance on February 9, 2009 was \$1,648.83,  
23 whereas on April 8, 2008 (ten months earlier) the balance was \$3,712.20, and was  
24 \$2,387.42 on October 8, 2008, the date on which the collection lawsuit was filed.

25          17.    During the course of litigation, Plaintiff's counsel advised Mr. Kennard  
26 that the complaint was barred by the expiration of the statute of limitations period.

27          18.    In a letter dated October 1, 2009, Mr. Kennard sent Mr. Stempler a letter  
28 which stated, among other things, "Given the cost of litigation, my client has

1 acquiesced to your request for dismissal.” The letter enclosed a copy of the request  
2 for dismissal being sent to the state superior court for filing.

3 19. On October 5, 2009, the state superior court filed Defendant Nelson’s  
4 request for dismissal of NSCAL’s collection lawsuit against Plaintiff without  
5 prejudice.

6 20. There was no settlement of the collection lawsuit between Plaintiff and  
7 Defendant.

8 21. Plaintiff incurred legal fees, expenses, and costs, for having to hire  
9 counsel and to defend against NSCAL’s collection lawsuit filed by Nelson.

10  
11 FIRST CLAIM FOR RELIEF

12 Violating the Fair Debt Collection Practices Act

13 Against All Defendants

14 22. Those paragraphs under the headings “Jurisdiction,” “Parties,” and  
15 “Facts Supporting Each Claim” are incorporated by reference.

16 23. Plaintiff is a “consumer,” as defined by FDCPA § 803, codified at 15  
17 U.S.C. § 1692a(3).

18 24. Defendants are each a “debt collector,” as defined by FDCPA § 803,  
19 codified at 15 U.S.C. § 1692a(6).

20 25. The purported credit transaction that Defendants attempted to collect  
21 from plaintiff is a “debt,” as defined by FDCPA § 803, codified at 15 U.S.C. §  
22 1692a(5).

23 26. The above-noted purported debt was incurred by plaintiff primarily for  
24 personal, family, or household purposes.

25 27. Defendants violated numerous sections of the FDCPA, in particular, but  
26 not limited to: 15 U.S.C. §§ 1692c(a)(2), 1692e, 1692f.

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SECOND CLAIM FOR RELIEF

Violating the California Rosenthal Fair Debt Collection Practices Act

Against Defendants NSCAL and Clement

28. Those paragraphs under the headings “Jurisdiction,” “Parties,” “Facts Supporting Each Claim,” and “Violating the Fair Debt Collection Practices Act” are incorporated by reference.

29. The Rosenthal Fair Debt Collection Practices Act, Cal. Civil Code § 1788 et seq. (“Rosenthal Act”) was enacted in 1976 to ensure the integrity of our banking and credit industry. Cal. Civil Code § 1788.1(a)(1). The Legislature found: “Unfair or deceptive debt collection practices undermine the public confidence which is essential to the continued functioning of the banking and credit system and sound extensions of credit to consumers.” Id.

30. Defendants are each a “debt collector” within the meaning of Civil Code § 1788.2( c), in that Defendants regularly and in the ordinary course of business, on behalf of itself or others, engaged in acts and practices in connection with the collection of consumer debts.

31. Plaintiff is a “debtor” within the meaning of Civil Code § 1788.2(h), in that Plaintiff is a natural person from whom Defendants sought to collect a consumer debt alleged to be due and owing.

32. The purported debt which Defendants attempted to collect from Plaintiff is a “consumer debt” within the meaning of Civil Code § 1788.2(f), in that it was incurred primarily for personal, family, or household purposes.

33. Defendants violated the Rosenthal Act, including Cal. Civil Code §§ 1788.10, 1788.17.

34. Defendants’ violations were done willfully and knowingly.

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PRAYER

WHEREFORE, plaintiff prays for judgment as follows:

1. On the First Claim for violating the Fair Debt Collection Practices Act, pursuant to 15 U.S.C. § 1692k, an award of actual and statutory damages, costs and reasonable attorneys' fees;

2. On the Second Claim for violating the California Rosenthal Fair Debt Collection Practices Act, pursuant to § 1788.30, an award of actual and statutory damages, costs and reasonable attorneys' fees;

3. For such other further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Please take notice that plaintiff demands trial by jury in this action.

Respectfully submitted,  
CONSUMER LAW OFFICE OF ROBERT  
STEMPLER, APLC



By: Robert Stempler,  
Attorney for Plaintiff

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge S. James Otero and the assigned discovery Magistrate Judge is Paul L. Abrams.

The case number on all documents filed with the Court should read as follows:

**CV09 - 7266 SJO (PLAx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

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**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

☒ **Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

☐ **Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

☐ **Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Robert Stempler, Cal. Bar No. 160299  
 Email: Robert@StopCollectionHarassment.com  
 Consumer Law Office of Robert Stempler, APLC  
 P.O. Box 1721  
 Palm Springs, CA 92263-1721  
 Telephone (760) 422-2200; Fax: (760) 479-5957

UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA

JEREMY EVANS,

CASE NUMBER

PLAINTIFF(S)

CV09 07266 SJO PLA<sub>x</sub>

v.

NORTH STAR CAPITAL ACQUISITION, LLC;  
 NELSON & KENNARD, ATTORNEYS AT LAW;  
 CRAIG CLEMENT; and DOES 1 to 10;

SUMMONS

DEFENDANT(S).

TO: DEFENDANT(S):

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Robert Stempler, whose address is P.O. Box 1721; Palm Springs CA 92263-1721. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

OCT - 6 2009

Dated: \_\_\_\_\_

By: \_\_\_\_\_

CHRISTOPHER POWERS

Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].



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## UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

### CIVIL COVER SHEET

**I (a) PLAINTIFFS** (Check box if you are representing yourself ☐)  
**JEREMY EVANS**

**DEFENDANTS**  
 NORTH STAR CAPITAL ACQUISITION, LLC  
 NELSON & KENNARD, ATTORNEYS AT LAW  
 CRAIG CLEMENT

**(b) Attorneys** (Firm Name, Address and Telephone Number. If you are representing yourself, provide name.)  
 Robert Stempler, Telephone (760) 422-2200  
 Consumer Law Office of Robert Stempler, APLC  
 P.O. Box 1721, Palm Springs CA 92263-1721

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an X in one box only.)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only**  
 (Place an X in one box for plaintiff and one for defendant.)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. ORIGIN** (Place an X in one box only.)

- ☒ 1 Original Filing ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

**V. REQUESTED IN COMPLAINT:** JURY DEMAND: ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)

**CLASS ACTION** under F.R.C.P. 23: ☐ Yes ☒ No

**MONEY DEMANDED IN COMPLAINT:** \$ To be determined.

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  
 Fair Debt Collections Practices Act, 15 U.S.C. § 1692 et seq.

**VII. NATURE OF SUIT** (Place an X in one box only.)

<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 520 Habeas Corpus	<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 530 General	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<input checked="" type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 555 Prison Condition	
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 510 Selective Service	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 550 Securities/Commodities/Exchanges	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 575 Customer Challenge 12 USC 3410	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 861 FIA (1396R)
<input type="checkbox"/> 590 Other Statutory Actions	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 591 Agricultural Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 863 D/WC/DIWW (405(g))
<input type="checkbox"/> 592 Economic Stabilization Act	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 463 Habeas Corpus-Alien Detainees	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 864 SHD Title XVI
<input type="checkbox"/> 593 Environmental Matters	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 594 Energy Allocation Act	<input type="checkbox"/> 240 Torts to Land			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 595 Freedom of Info. Act	<input type="checkbox"/> 245 Tort Product Liability			<input type="checkbox"/> 871 ILS-Third Party 26 USC 7609
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 290 All Other Real Property			
<input type="checkbox"/> 950 Constitutionality of State Statutes				

FOR OFFICE USE ONLY: Case Number: CV09 07266

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes  
If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes  
If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or  
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or  
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.  
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.  
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Sacramento County; Minnesota State; New York State

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.  
**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	Sacramento County; Minnesota State; New York State

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

**Note:** In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date October 5, 2009

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

**Key to Statistical codes relating to Social Security Cases:**

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))